Backgrounder

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America's Identity Crisis

Document Fraud Is Pervasive and Pernicious

By Marti Dinerstein

A U.S.-issued photo driver's license is the only identification anyone needs to board a domestic flight in America. Most states require driver's license applicants to present documents proving their identity and their status as legal state residents. However, some states do not. That is why hijackers were able to obtain driver's licenses or motor vehicle ID cards from Florida, New Jersey, and Virginia. It is reasonable to assume they showed them on September 11 to board the four planes they eventually used to kill more than 3,000 people in New York, Pennsylvania, and Washington, D.C. The horror of these acts shocked the public into the realization that the government has lost control over who is admitted to the United States and is often unable to find those who reside here illegally.

In 2002, the Census Bureau estimated that 8.7 million people resided in the United States illegally. The Immigration and Naturalization Service (INS) has estimated that approximately 40 percent of illegal immigrants are visa overstayers while 60 percent crossed our borders without permission. Although the majority of illegal immigrants wish us no harm and simply want a better life for themselves and their families, the stark reality is that their presence has spawned widespread document and identity fraud throughout the United States that threatens our ability to distinguish illegal aliens from U.S. citizens and legal foreign residents.

Once here, illegal immigrants must work to support themselves. The immense demand for documents "proving" the right to work in the United States has led to the exploitation of loopholes in laws and regulations at every level of government. The offices that provide original or duplicate copies of these documents suffer from overwork, underfunding, and severe systems inadequacies.

Production and distribution of false documents has become a large and sophisticated industry. A wide variety of documents are involved, ranging from baptismal certificates to INS-issued documents. However, three seemingly innocuous documents form the core of the crisis the United States now faces in ensuring that its personal identification documents and databases are secure. They are U.S. birth certificates, Social Security numbers (SSNs), and driver's licenses.

U.S. Birth Certificates

In 1986 Congress passed the Immigration Reform and Control Act, a key element of which was sanctions against employers who hired illegal aliens. This act had the unintended consequence of accelerating the proliferation of counterfeit, stolen, and illegally obtained Social Security cards and driver's licenses, which are the most frequently provided documents used to demonstrate authorization to work in the United States. Birth certificates are one of many so-called "breeder" documents that are often used to obtain Social Security cards and driver's licenses.

Increasingly, illegal alien job seekers are choosing to buy counterfeit U.S. birth certificates or to obtain a copy of an authentic one using fraudulent means. It is well worth the effort. A false claim of U.S. citizenship bypasses the risk and high cost of submitting phony work authorization documents.

Birth certificate fraud occurs in three ways: a counterfeit certificate is created, an original certificate itself is altered, or a duplicate certificate is obtained by an imposter. Susan Martin, former Executive Director of the U.S. Commission on Immigration Reform, testified before a Congressional subcommittee in 1999 about why birth certificate fraud is so rampant. According to Ms. Martin, at the time the commission made its investigations, in addition to state registrars, there were about 7,000 local registrars issuing certified copies of birth certificates. The majority of requests for birth certificates were by mail and most were made for

Marti Dinerstein (mdinerstein@earthlink.net) is President of Immigration Matters, a public policy analysis firm in New York.

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administrative or legal purposes such as verifying age, citizenship, or parental relationship to obtain Social Security cards, passports, and driver's licenses.[1]

Requests for certified copies of birth certificates are handled either in person or by mail, the latter offering more opportunity for fraud. For instance, someone seeking a new identity can read a newspaper's obituary section, obtain the name and birth date of someone of similar age, and request a certified copy of that individual's birth certificate. However, that method requires a certain amount of patience and luck.

A far easier way now exists to take the first step in stealing someone's identity. State and local registrars are required by law to make birth and death records public, which has typically meant giving access to the physical records at government offices. Today, however, the risk exists that millions of these records could be obtained by anyone with an Internet connection.

Lack of Data Privacy of Increasing Concern

Access to personal data contained in public records is of mounting concern to lawmakers and privacy experts. The reasons why are amply demonstrated by one example that occurred in December 2001 and was reported by CNETNews.com.[2] In the name of public disclosure, the Office of Health Information and Research of the California Department of Health Services sold the birth and death records of more than 24 million people who were born or died in the state between 1905 and 1995 to a private company for the sum of $1,500. The data included names, birth dates, birth locations, and mothers' maiden names, the latter of which is often used as a password verification by credit card companies, health insurers, and other providers of personal services. Following a blizzard of complaints from frantic state residents, the company voluntarily pulled the database. Pending new regulations to prevent similar situations in the future, California's governor temporarily suspended the sale of such records to private companies that intend to make them accessible via the Internet.[3]

In her 1999 Congressional testimony, Ms. Martin drew a distinction between the reliability of state and local records. She noted that most state vital record offices utilize unique paper and markings, seals, and other features to deter alteration or counterfeiting of birth certificates. But these controls have not been put in place by the estimated 7,000 local registrars. There currently is no mandated standard form for certified copies of birth certificates and no mandated national standard for issuance of birth certificates.

David Simcox, Chairman of the Center for Immigration Studies and an expert in the fields of identification and privacy, made similar points in his testimony to the House immigration subcommittee in 1999. He referenced the existence of a uniform model vital records statute drawn up by the National Center for Health Statistics (www.cdc.gov/nchs) and the National Association of Public Health Statistics and Information Systems (www.naphsis.org). But the uniform model is not binding on the states. Thus, our state-based system of vital records continues to suffer from a confusing morass of document formats, standards, and legal statutes.

Simcox called for tougher sanctions for fraud, alteration, and imposture in the use of vital records, now only a misdemeanor in most states.[4] That slap on the wrist, however, does not comport with the fact that purchasers and users of fraudulent documents are not innocent victims but actively seek out and pay handsome sums to forgers or middlemen who can obtain them.

Recommendations to Reduce Birth Certificate Fraud

The fact that foreign nationals are illegally appropriating the identity of citizens by fraudulently obtaining U.S. birth certificates has been known for many years. The ways to stop it are also known. The U.S. Commission on Immigration Reform recommended in the mid-1990s a series of actions to reduce fraudulent access to birth certificates, including:

- Regulating requests for birth certificates through standardized application forms;
- Using a standard design and paper stock for certified copies of birth certificates;
- Making certified copies of birth certificates issued by states or state-controlled vital records offices the only forms accepted by federal agencies;
- Encouraging states to computerize birth records repositories; and
- Creating a computerized system to match interstate and intrastate birth and death records.

To those should be added:

- Prohibiting the display of vital state records online;

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- Ensuring that only the lawful record holder receives a duplicate birth certificate valid for identification purposes. All other copies should carry an overprint saying "Not Valid for Identification" or other words to that effect.

- Enacting federal legislation raising the penalties for fraudulent use of state vital records documents.

Inaction on these recommendations has made it far easier for imposters to obtain a highly-prized identity document — a Social Security card.

Social Security Numbers

James Huse, Jr., Inspector General of Social Security, appeared before the House Social Security Subcommittee on November 8, 2001 to discuss the prevention of identity theft by terrorists and criminals. Acknowledging that identity theft was a already a significant problem before September 11, he said that improperly obtained Social Security numbers (SSNs) were a factor in the terrorists' ability to assimilate themselves into our society. He repeated prior testimony and echoed warnings from previous reports that the most critical issue in preserving the integrity of Social Security numbers centers on the authentication of documents presented by the individual applying for a SSN or a replacement Social Security card.[5]

A SSN is needed to work in the United States. Undocumented immigrants and those with visas that do not permit employment have devised multiple ways to obtain a Social Security card fraudulently:

1) They can invent a SSN;

2) They can steal or borrow a Social Security card;

3) They can buy a counterfeit Social Security card;

4) They can obtain a valid Social Security card by using false evidentiary documents, such as counterfeit passports and INS papers;

5) They can obtain a valid Social Security card by using a fraudulently acquired U.S. birth certificate; or

6) They can fraudulently obtain a valid replacement Social Security card by stealing a person's identity.

Possibilities 4, 5, and 6 are the responsibility of the Social Security Administration (SSA) to guard against. When an individual applies for an original SSN, they must provide acceptable documentary evidence of age, identity, and U.S. citizenship or lawful alien status. If applying for a replacement Social Security card, the applicant must provide evidence of identity and, if applicable, lawful alien status.

In a Congressional Reponse Report dated October 25, 2001 to the ranking minority member of the Senate Committee on Finance, Mr. Huse wrote that the SSA has taken many steps to safeguard the integrity of Social Security numbers. It provides employees with copies of a guide prepared by the INS that highlights what to look for when inspecting documents. Agency field offices also can compare information provided to them to an INS online database containing the alien registration number issued to all legal permanent resident aliens in the United States. Additionally, the SSA has developed a way to flag suspect or known fraudulent documents on its computer system so that they will be rejected if presented again. It also has installed sophisticated systems that can identify transactions with the greatest potential for fraud, such as sending ten or more Social Security cards to the same address within a six-month period.[6]

Employers Prefer Ignorance

If illegal aliens invent a SSN, steal or borrow an authentic card, or buy a counterfeit one, most likely the SSA will not catch it without the aid of employers. But few employers seem inclined to offer that cooperation. The Employee Verification Service (EVS) is a mechanism for employers to match an individual's name and SSN with SSA records. There were 6.5 million U.S. employers in fiscal year 2000. Only 6,000 employers were registered users, and of those, only 211 used EVS. Employers complain that the feedback is not timely, and Mr. Huse acknowledged that SSA has not implemented its new online EVS as of October 2001. However, he also stated that a number of employers find the system to be "too helpful", exposing the fact that their employees are in the country illegally or holding visas that do not permit them to work. Employers who knowingly hire these people are subject to fines and penalties.

Each year employers report employee earnings to the SSA on IRS W-2 forms. If a report cannot be matched to a Social Security number, it cannot be credited to a worker's earnings record. Instead, it is posted to the Earnings Suspense File (ESF). In 1999, SSA auditors focused on 100 employers with the most

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suspended wage items.[7] They found more than 109,000 phony SSNs. The SSA has no legal authority to levy fines and penalties against employers who repeatedly submit large numbers of wage reports with incorrect SSNs. They must rely on the IRS to do so, and audits have revealed this rarely happens.

Mission Creep Expands Social Security's Responsibilities

Despite the Social Security Administration's efforts to reduce fraud, immigration and privacy experts believe that they have done too little, too late. There has been a historical reluctance on the part of the SSA to modify the mission it was assigned in 1935 when the Social Security Act was passed. At that time its only responsibilities were to record employee and employer contributions, compute benefits, and pay them out.

But beginning with the advent of computers in the 1960s, the use of the SSN, an existing unique identifying number, spread rapidly among government and industry. Despite the possibility of fraud, the SSA did not require applicants to prove identity, age, citizenship, or alien status until 1978, according to a 1998 piece by David Simcox in *The Social Contract*.[8] In 1983, Congress recognized the need for rudimentary counterfeit-resistant features for all new and replacement cards, but some 40 versions of the card are still in circulation. The SSA issues approximately six million new cards a year. The agency also issues close to 11 million replacement cards each year, ostensibly because of loss, damage, or name change.

Congress Has Short Attention Span

In 1996, having passed both immigration reform and welfare reform bills, Congress ordered the SSA to develop a prototype of a counterfeit-resistant, tamper-proof Social Security card that provides individuals with "reliable proof of citizenship or legal resident alien" status. In doing so, Congress implicitly recognized the nation's need for such an identifier, and it explicitly recognized that SSNs were being used in fraudulent ways that could create heavy societal costs.

The SSA responded to Congress the next year by providing seven prototype cards that ranged widely in terms of their counterfeit resistance, cost, data content and capacity, and machine-readability. The estimated cost range was $5 to $10 billion. To date no action has been taken on that report. In his 1998 *Social Contract* piece, Simcox outlined in great detail how daunting an administrative task it would be to produce and reissue new cards for the nearly 300 million current cardholders. He also raised the specter of how the multi-billion dollar project could be undermined by the same illegal immigrant advocacy forces at work today that would complain of "discrimination" and "selective application," thereby nullifying the entire effort.

The SSA also offered alternatives to a mass re-issuance, one of which was to develop a secure new card but to issue it only when new and replacement cards were needed and when existing cardholders requested new benefits. A second option was to mandate states to include verification of Social Security numbers as part of their drivers' license and non-driver ID card issuance process. Driver's licenses already incorporate many of the counterfeit-resistant, tamper-proof features envisaged for the SSN. They are the most widely accepted identification used in the United States today. Americans understand the process-and are used to paying for it.

Whatever and whenever Congress chooses between and among the various options recommended to meet its own mandate to provide individuals with reliable proof of citizenship or legal resident alien status, certain improvements should be made to limit fraud in the current Social Security card system. In his cover letter to the October 21, 2001 report to the Senate Committee on Finance titled "Terrorist Misuse of Social Security Numbers," James Huse conveyed this chilling comment:

> *While SSA has implemented various programs to assist in the identification of SSN misuse, none are designed to uncover possible SSN misuse by noncitizens. Indeed, we can think of no program SSA could institute that would accomplish such a difficult mission. Certainly, room exists for SSA to improve its existing program and system controls to prevent the improper attainment of an SSN. However, once an individual obtains a SSN, either through proper or improper means, the agency has little ability to control the use of that number.*

Recommendations to Reduce Social Security Fraud

Huse provided a list of recommendations to assist in the prevention and detection of individuals attempting to improperly obtain and misuse SSNs, including:

- Obtaining independent verification from the issuing agency (i.e., INS and the State Department) for all evidentiary documents submitted by noncitizens

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before issuing an original SSN;

- Exploring the use of innovative technologies, such as biometrics, in the enumeration process;

- Expediting enhancements to the enumeration system that will identify and prevent the assignment of SSNs in certain suspect circumstances;

- Establishing a reasonable threshold for the number of replacement Social Security cards an individual may obtain during a year or over a lifetime;

- Procuring legislative authority to provide the SSA the tools to require chronic problem employers to use EVS and to sanction them if the IRS will not do so;

- Expanding the SSA's data-matching activities with other federal, state, and local government entities; and

- Enacting federal legislation raising the penalties for fraudulent use of SSNs and cards.

A SSN conveys legal legitimacy to its holder. The fraudulent acquisition of SSNs by foreign nationals illegally residing in the United States is a risk to homeland security. It facilitates terrorists' ability to get a job, drive a car, open a bank account, and meld unnoticed into the general populace. Further, its procurement and use by any illegal resident fosters disrespect for our government and its laws when they can be broken so easily and with such impunity.

For these reasons, we must erect more firewalls to prevent illegal aliens' misuse of this simple nine-digit number that has become a passkey to the American way of life. Possessing a genuine Social Security card, however obtained, greatly enhances the chances of receiving a valid driver's license, the most widely accepted identification within the United States.

Driver's Licenses

A national debate has resumed on whether the United States needs a national identity card. But, whatever the merits, proponents and opponents agree that it would be a very long time before a totally new system could be operational. Until then, driver's licenses will continue to serve as our most widely accepted identity document. The bad news is that some current state driver's license laws, regulations, and procedures are rife with loopholes, subject to political pressure, and breed a culture of corruption. The good news is that these problems are more easily and affordably corrected than the validation and systems-development issues required to safeguard the integrity of birth certificates and SSNs.

Driver's licenses can be obtained by individuals residing here illegally in three different ways:

1) Purchasing a counterfeit license or altering an exisiting one;

2) Obtaining a valid license by presenting fraudulent breeder documents and employing other illegal stratagems usually provided by middlemen; or

3) Exploiting loopholes that permit illegal aliens to legally obtain a valid driver's license.

The first is straightforward and simply another example of the widespread document fraud that has swept the country since the explosion of illegal residents began in the 1980s. But the other two are activities unique to the driver's license issuing process.

Phony Breeder Documents Produce Valid Driver's Licenses

Criminal middlemen have discovered that helping people obtain licenses illegally is a lucrative business. These purveyors use techniques similar to drug dealers and human smugglers. The middlemen function as independent contractors with a penchant for secrecy. Many work only on the recommendation of someone they trust, reveal only their cell phone or beeper numbers, and speak in code. Eager to avoid attention and apprehension, they frequently change the locations in which they operate.

Middlemen bribe low-paid motor vehicle clerks. They cultivate corrupt notaries and lawyers, and they identify the most lenient issuing centers. Their customers are knowing accomplices who initiate the process and willingly pay large sums for a license.

Prior to September 11, *The Bergen* (N.J.) *Record* undertook investigative reporting to document exactly how the process works. They found a thriving black market where illegal immigrants commonly pay $2,000 to brokers who guide them through the whole process.[9] If immigrants have not already fraudulently obtained their own breeder documents such as birth certificates, Social Security cards, and green cards, the middlemen jack up the price and obtain counterfeit ones for them.

The brokers can even overcome the impediment

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of getting a license for someone who does not know how to drive. They simply arrange for someone else to take the written and road tests. This is possible because although a photo is required to obtain a permit, no one bothers to match it to the person taking the test.

The plan is not always flawless. The scam can be discovered and arrests made. Illegal immigrants caught with fraudulent documents are usually charged with forgery, which in New Jersey is punishable by three to five years in state prison. However, the cases are often downgraded to disorderly person offenses. This response is not unique to New Jersey.

Lax Law Enforcement Has Predictable Result

The trivialization of crimes committed by undocumented aliens is widespread in localities with high incidence of illegal residents, mostly because these populations are in a real sense part of the community. Local law enforcement and judicial officials are human beings who empathize with people trying to build a better life. Also, police often come under heavy criticism from immigrant advocates and the media for what is characterized as harsh treatment that causes hardship to immigrant families. But the end game of this leniency is a disinclination to punish any illegal resident that may be deported. We try to catch them at our borders. If we do not succeed, increasingly, they are given a free ride even if they break additional laws while here. The result is an illegal community equal to the population of 10 states.

So some illegal residents take the minimal risk of committing bribery, forgery, and other fraud to obtain driver's licenses. Others simply take advantage of loopholes in various states' identification requirements to receive driver's licenses. It has been reported that at least 13 of the 19 hijackers on September 11 were able to obtain valid licenses or non-driver ID cards from Florida, New Jersey, or Virginia.[10] That shocked all three states into taking action to tighten their procedures and resulted in a spate of media stories that revealed a hodgepodge of loosely enforced standards in other states as well.

All states require applicants to provide proof of identity but only approximately half require proof of state residency. The American Motor Vehicle Administrators Association estimates that as many as 200 forms are accepted. States distinguish between primary IDs in which they have a high degree of confidence and secondary IDs. Common primary IDs include a U.S. birth certificate, current license from another state, valid U.S. passport, military identification, INS-issued "green card" that confers permanent residency status, or an I-94 form that indicates a visa holder's period of stay. Secondary ID sources cover a wide range of documents, including a Social Security card, credit card with signature, employer identification card, foreign driver's license, card verifying country of origin, baptismal certificate, family Bible record, and the flexibility for a motor vehicle supervisor to approve a multitude of additional secondary items. Counterfeit copies of many of these so-called identity documents may be purchased easily in immigrant neighborhoods.

Even though state motor vehicle departments may be too permissive in the identity documents used to establish an applicant's right to a license, they are usually victims of deceit and fraud by illegal immigrants. However, it is hard to explain or excuse the irrational and irresponsible administrative procedures adopted by many state motor vehicle departments in granting licenses. The most egregious of these are states that explicitly and openly permit foreign nationals residing in the United States illegally to obtain a valid driver's license. The policies of many other states facilitate the same end result, whether or not it was a deliberate decision. Examples are rife but it takes only a few to demonstrate the depth and danger of this practice.

States Subvert U.S. Immigration Laws

In 2001, Tennessee had the dubious distinction of enacting a law thought to be the nation's most lenient for granting licenses to illegal immigrants. Officials cited public safety and the desire for more drivers to learn traffic laws as their motivation. The Chamber of Commerce backed the law as a way of attracting business. According to *The Boston Globe*, more than 30,000 immigrants swamped license testing centers in the first month after the law went into effect.[11] A supply of 17,000 Spanish-language driver's manuals ran out in eight days. Lines started forming at dawn and resulted in such overcrowding that a fire marshal cleared one station and a landlord yanked a lease at another. It was reported that as many as 60 percent of the applicants failed the written test-and got right back into line to try again.

The Boston Globe also reported that Georgia had similar lax requirements until their law was changed in 1996 after being deluged by applicants from all over the United States. After an extensive investigation, Georgia concluded that the lure to illegal immigrants was the chance to obtain valid identification not available in their state of residence. Subsequently the

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law was changed to make explicit that only U.S. citizens or those with valid visas are eligible to hold driver's licenses. But now, six years later, Georgia's governor seems ready to reverse that reversal. In a public forum nine days after the September 11 terrorist attacks, he supported giving illegal immigrants a valid Georgia driver's license and predicted that would occur within 12 to 18 months. He defended his view based on the fact that Georgia's Hispanic population grew 300 percent in the 1990s and that Georgia's economy is dependent on the labor of Latinos.[12] Hispanic immigrant leaders have said getting licenses for illegal immigrants is among their top priorities.

North Carolina also has a reputation for laxity on verifying identity documents. A story in *The Miami Herald* said that 388,000 people hold North Carolina licenses with the Social Security number 999-99-9999. Motor vehicle clerks enter that number if applicants do not provide another one. Apparently the identification problems are so severe and so well known that Florida's motor vehicle director recently took the extraordinary step of denying reciprocity to North Carolina license holders.[13] *The Charlotte Observer* reported that as of January 2002, North Carolina would require either a Social Security card or an IRS-issued taxpayer identification number.[14] However, the IRS has uncovered massive fraud by illegals' improper use of the latter and the document proof required to verify state residency does not meet high standards.

The three states where hijackers reportedly obtained licenses or motor vehicle IDs — Florida, New Jersey, and Virginia — also changed requirements after the attacks according to *The Miami Herald*.

Recommendations to Reduce Driver's License Fraud

Obviously the September 11 attacks were a wake-up call to state officials and motor vehicle departments that a driver's license is a prized commodity to all illegal immigrants and a dangerous door opener in the hands of foreign terrorists. Clearly, these two groups are paying attention to the loopholes in the way states issue this key identity document. Many loopholes are easy to close but require the political will to do so. States could greatly improve the security of driver's licenses by adopting common sense procedures, such as:

- Improving the identification verification process by establishing designated licensing offices where employees would be trained to spot fraudulent documents and be equipped with the computer equipment necessary to check databases maintained by the SSA and INS. Non-permanent resident immigrants and visa holders would be required to use one of these offices.

- Eliminating some types of documentation that can be easily forged or abused, such as the I-94 visa form and the IRS taxpayer identification number.

- Stopping the common practice of issuing licenses to foreign nationals on a same-day basis, which makes it extremely difficult to properly check identity and residency documents.

- Tying license expirations to those indicated on visas and foreign passports instead of automatically granting the typical four-to-six year expiration period.

- Restricting the number of duplicate licenses issued to one individual to replace stolen or lost originals.

- Requiring that photo identification be shown at every stage of the licensing process and refusing to permit photographs that obscure individuals' faces.

- Increasing the penalties for obtaining a license through fraudulent means.

The simple fact is that if individual states do not take all necessary steps to deny driver's licenses to visa violators and illegal immigrants, millions of American citizens could be seriously inconvenienced — or worse. We have all benefited from a long-standing reciprocity policy that grants individuals moving from one state to another the courtesy of obtaining a new license without having to take another written or road test. In a highly unusual action in 2001, Florida rescinded this courtesy for North Carolina residents out of concern about the repercussions of putting licenses into the wrong hands. The Attorney General of South Carolina has similar concerns. He has asked U.S. Attorney General John Ashcroft to require additional photo identification for airline passengers with licenses from North Carolina, Tennessee, Utah, and Virginia, complaining that their loose standards put others at security risk from terrorists.[15] If more states disregard the legal status of residents, today's entire infrastructure of issuing driver's licenses — the most widely used identity card in the United States — could crumble.

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Narrow Interests Must Yield to the Common Good

The creation of the Office of Homeland Security was an explicit recognition that we have been too complacent, thinking ourselves immune from being attacked on our own shores. Problems designated for priority attention include increased security at borders, airports, and other points of entry; programs and research to protect our public health system; and recognition of the vulnerabilities of energy facilities and transportation infrastructure.

The USA Patriot Act of 2001 has some provisions relating to how document fraud facilitated the terrorists' entry to and free movement within the United States. It provides new powers to detain suspected terrorists and exclude from entry aliens with known terrorist ties. The act also calls for expediting development of an integrated entry and exit data system for visa holders, implementation of a foreign student tracking system, a feasibility study on upgrading the FBI's fingerprint identification system to make it available to consular offices abroad and at U.S. ports of entry, and a feasibility study for giving airlines direct access to the names of suspected terrorists. But there is a disconnect between the significance of the proposed projects and the relative lack of urgency with which they would be completed.

Inattention to Risk Management

American industry is much more responsible than the federal government in using technology to control risk and ensure quality control of their products. If the issuance of birth certificates, Social Security cards, and driver's licenses was a service offered by businesses, they would never tolerate the high level of fraud and attendant product unreliability, because they could not afford it. Profits are diminished by poor-quality products and customers vote with their feet. But, ironically, they would not be permitted to ignore it because the federal government would intervene. Regulatory agencies abound whose sole purpose is to ensure the safety and soundness of our banking and securities services, our transportation systems, and our telecommunications providers to name just a few. Private industry has been compelled to spend billions of dollars in systems development to meet the quality control standards required by these agencies. The events of September 11 showed all too clearly that it is past time for the government to do the same.

Government Must Embrace Technology

The fraudulent use of key identity documents by illegal foreign residents is growing. There is no hope of containing this threat without the tools technology provides. Private industry has embraced technology and reaped the rewards in more product innovation, greater productivity, and enhanced risk control. Grandmothers with instant messaging can speed their advice along through e-mail. Al Qaeda operatives living in caves communicate via laptops. And yet, at every level of American government, public service employees do not have the tools they need to do their jobs effectively.

Too much of their work is still paper-based. Their computers and off-the-shelf software are outdated, Internet access often is not available, data management systems are woefully lacking, and their systems are not linked to other arms of government that have data and intelligence they need. This is certainly true for the government agencies with control over which foreign nationals enter the country, what they have legal status to do while here, and when they must leave. At the federal level these include the State Department, INS, SSA, and the FBI. At the state and local level, these include motor vehicle departments, birth certificate registrars, and local police.

Three identity documents — birth certificates, Social Security cards, and driver's licenses — are under assault by illegal immigrants and visa violators. The agencies responsible for these documents need increased funding to support technology enhancements and systems development. All need tamper-proof documents. All need more resources targeted to investigating, finding, and punishing those who commit fraud. All need to address and rectify certain practices specific to their responsibilities that either explicitly or implicitly encourage illicit activities.

Some of those actions could be accomplished quickly with little expenditure. Others carry price tags ranging from millions to billions of dollars and would require many years to complete. All are important. But in a situation where government funds are tight and solutions are needed quickly, which programs to enhance the safety of our identity credentials would produce the biggest benefit? What do we need most?

Majority Favors a National ID Card

Opinion polls consistently reveal that a cross-section of American residents would say we need a national identity card. Immediately after September 11, a Pew Research Center poll found that 70 percent of those

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surveyed favor such a card.[16] Gallup Polls taken in 1983, 1993, and 1995 consistently showed a majority of respondents favored such a card. When demographic subcategories were indicated, immigrants favored the card at a higher rate than native-born Americans.[17]

When this topic arose in the past, the opponents were predictable, including civil liberties advocates, libertarians, and data privacy specialists. Since the terrorist attacks, however, the ground has shifted. Alan Dershowitz, a Harvard Law School professor and one of country's most outspoken civil libertarians, wrote a much-quoted column in *The New York Times* saying that anonymity was not a freedom guaranteed by the Constitution. He argued that being asked for identification is already a daily occurrence and that fears of government intrusion could be allayed by clearly delineating the criteria under which a national identity card could be requested.[18]

However, opponents already have begun warning about the evils of big brother government. The White House has said such a card is not under consideration, and most elected officials have taken a low profile on the subject. There is no consensus on the need or desirability of a national identity card, much less the scope and uses of such a card. Indeed, to some people the very words "national identity card" conjure up images of Gestapo-like intimidation and an Orwellian society that inhibits personal freedoms. While legislative protections could eliminate both of these threats, intellectually honest debate on the subject is very difficult. While that debate should be initiated, Americans no longer have the luxury of waiting for a consensus to form at some far distant date.

Watchwords: Pragmatism and Speed

There must be immediate action to protect lives and to prevent foreign nationals from acquiring the privileges of American citizenship through fraudulent means. The success of federal pilot projects already initiated and a state-sponsored proposal deserve serious consideration.

The vulnerability of the birth certificate issuance system allows aliens to appropriate the identity of U.S. citizens. In 1996, the U.S. Commission on Immigration Reform recommended a number of measures to remedy the abuses. All are important but two seem particularly relevant to the current crisis environment. The first requires only a simple change in operating procedures. Federal agencies should no longer accept copies of birth certificates from the local issuing agencies but require certified copies issued by state or state-controlled vital records offices.

The second is an urgently needed computerized system to match interstate and intrastate birth and death certificates. Following passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the INS was designated lead agency on a federal-state-private sector working group to oversee this effort as well as others to raise standards for breeder documents. It appears that, more than five years later, little progress has been made. This is particularly unfortunate because the act recognized that pervasive identity fraud was threatening the integrity of our personal identity documents and authorized the granting of federal monies to stop it.

Employee Verification Service: A Proven Success in Identifying Fraud

A high percentage of visa overstayers and illegal immigrants would leave the United States if they were unable to find jobs. Experience has shown that the Social Security Administration's Employee Verification Service (EVS) has been highly successful in identifying employees who provide a false SSN to their employer. The system is not widely used because employers complain it takes too long to get verification and because some employers wish to ignore the fact that illegal immigrants have been hired.

The SSA already has built and successfully piloted an online EVS. Resources should be committed immediately that would permit a phased rollout to any of the nation's 6.5 million employers who could use an online verification system. Use of the system should be mandated for certain employers, including those with a high incidence of IRS W-2 forms that cannot be matched to SSNs and those in industries, such as food processing and hospitality, known to hire large numbers of illegal immigrants. Stiff fines should be levied against employers with a record of consistent abuse and the SSA should contact and initiate an inquiry with anyone who submits a fraudulent SSN. Undocumented aliens with phony SSNs are culpable and already have at least three strikes against them — illegal residence in the United States; purchase, possession and use of fraudulent documents; and false statements to obtain employment.

Driver's License Integrity Must Improve

The driver's license already is the most requested identity document in the country. But its integrity is suspect because of pervasive fraud in the breeder documents used to obtain it, the criminal involvement

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of middlemen who facilitate the procurement process, and the extremely poor judgment of states willing to issue them to illegal aliens. Another complication is the crazy quilt of guidelines that vary widely by state.

Fortuitously, an effort is well underway that would counteract these weaknesses. The American Association of Motor Vehicle Administrators (AAMVA; www.aamva.org) is helping states develop national standards with respect to driver's licenses' appearance, data content, and security requirements.[19] Cards would be made more tamper-proof and would include a biometric identifier, such as a fingerprint or retinal scan. There would also be a uniform set of standards regarding the documents needed to prove identity, residency, and legal status of non-citizens. Identity documents would be verified electronically with INS, the SSA, the Bureau of Vital Statistics and, if necessary, the FBI. Similarly, to ensure that no individual holds more than one valid driver's license at a time, a computer link would give states access to each other's driver databases.

Looked at dispassionately, nothing being suggested should cause alarm. Driver license cards themselves would be made more secure, with an ability to match a unique, biometric identifier against a master file to be sure the card belonged to the person presenting it. States would agree on a uniform set of reliable proof of identity documents that would be matched against existing federal and state databases, again to verify that they were legitimately issued and belong to the person presenting them. Similarly, new and replacement license requests would be matched against the existing driver databases in all other states to prevent the illegal issuance of licenses from more than one state at a time. This is not big brother. This is using technology and plugging security loopholes. The AAMVA says that it will cost up to $100 million to implement these programs and is seeking funding and legislative support from both Congress and the states.[20]

This proposal should meet with receptivity from Congress, as it already recognized the need for new federal rules governing state issuance of commercial driver's licenses in the USA Patriot Act of 2001. Concerned that some of the terrorists had obtained commercial licenses to transport hazardous materials, Congress mandated that no commercial license be issued until the U.S. Attorney General conducted a background check on the individual. Specifically, Congress required a check of the relevant criminal history databases and, in the case of an alien, a determination of his or her legal status in the United States and, as appropriate, a check of international databases through Interpol-U.S. National Central Bureau or other appropriate means.

This proposal also would give Congress an opportunity to revisit an important provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that required states to use SSNs as proof of identity when issuing a driver's license. The act contained specific language that made clear the SSN need not be shown on the face of the license but that it was to be provided and its authenticity verified with the Social Security Administration.

In 1998, the National Highway Traffic Safety Administration issued a rule necessary to implement this provision of the new law. At the same time, a national debate was raging about the Clinton administration's proposal for universal health care, which included a recommendation that a unique health identification number be assigned to all Americans, which would make it easier for medical providers to gain access to a patient's medical history. Civil libertarians and states' rights critics lumped the two proposals together, raising the scourge of a national identity card that would be invasive of our privacy and subject to misuse.[21] In October 1998, they were successful in killing the driver's license provision by tacking language onto the omnibus bill authorizing 1999 federal spending.[22] The actual legislation (HR 4197) to block the federal requirement never moved out of committee; therefore, Congress never had an opportunity to give it thoughtful consideration.

Security from Document Fraud Has Costs

Solving America's identity crisis will increase our security but will entail certain costs. It will be expensive to upgrade the technology tools government employees need and to modify and enhance databases so they can be shared by multiple government and law enforcement agencies. Changes in procedures may result in longer lines at motor vehicle bureaus.

Those who habitually employ illegal immigrants will have to kick their addiction and work instead to attract legal workers. Responsible employers must assume a new administrative task and verify the validity of their employees' SSNs. Those with valid concerns about privacy rights and the dangers of intrusive government must behave responsibly and not smear efforts to protect identity documents with the "national ID card" label. The mainstream media will need to differentiate between legal and illegal immigrants and report on the problems caused by the latter group while continuing to call attention to the hardships they face. Elected officials will need to resist the temptation to intervene when immigrant

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constituencies call to complain about stricter law enforcement. And those charged with enforcing the law must do so, rather than turning a blind eye or reducing penalties out of sympathy at the plight of illegal immigrants seeking a better life.

Post-September 11, Americans recognize that there are people from other countries who hate the United States, and some of them are living here. Even though the vast majority of illegal immigrants wish Americans no harm, they are nonetheless doing harm by engaging in widespread document and identity fraud that threatens the ability to distinguish illegal aliens from U.S. citizens and legal foreign residents.

We can no longer tolerate the laissez-faire attitude that has been permitted with respect to vital identity credentials. While remaining a generous nation that annually welcomes a million legal immigrants and more than 30 million foreign visitors to our shores, the government must enforce immigration laws and demand the departure of people with no authorization to reside in the United States. For this to happen, Americans must resist the instinct to let sentiment overpower common sense and common purpose.

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Center for Immigration Studies
1522 K Street NW, Suite 820
Washington, DC 20005-1202
(202) 466-8185
center@cis.org
www.cis.org

Backgrounder

America's Identity Crisis

Document Fraud Is Pervasive and Pernicious

By Marti Dinerstein

A U.S.-issued photo driver's license is the only identification anyone needs to board a domestic flight in America. Most states require driver's license applicants to present documents proving their identity and their status as legal state residents. However, some states do not. That is why hijackers were able to obtain driver's licenses or motor vehicle ID cards from Florida, New Jersey, and Virginia. It is reasonable to assume they showed them on September 11 to board the four planes they eventually used to kill more than 3,000 people in New York, Pennsylvania, and Washington, D.C. The horror of these acts shocked the public into the realization that the government has lost control over who is admitted to the United States and often is unable to find those who reside here illegally after they arrive.

Production and distribution of false documents has become a large and sophisticated industry. A wide variety of documents are involved, ranging from baptismal certificates to INS-issued documents. However, three seemingly innocuous documents form the core of the crisis the United States now faces in ensuring that its personal identification documents and databases are secure. They are U.S. birth certificates, Social Security numbers (SSNs), and driver's licenses.

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